

1909-009 Chancery Causes: Henry A. Barker vs. William T. Barker  
Lee Co.

17 Plat

- Deed

CA-Debt  
T-Property



To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County:

Humbly complainant your orator, Henry A. Barker, a citizen of Lee County, Virginia, respectfully represent unto your honor, as follows:

That he and one William T. Barker, are the joint owners of a certain little tract or parcel of land, lying and being in Lee County Virginia, in the upper Crab-orchard country and bounded as follows: On the southern end or side by the lands of the Key Stone Coal & Coke Co., on the western side by the lands of J. J. Gates and Elbert Barker, on the northern and western sides by the lands of James Barker, and is supposed to contain about nine acres: and that said real estate, as your orator believes and charges is susceptible of partition between him and the said William T. Barker, but should your orator be mistaken, and said land and property not be divisible in ~~land~~ <sup>kind</sup>, he alleges that his and the said William T. Barker's interest will be promoted by a sale ~~of~~ the whole of said tract, and the proceeds equally divided between them.

Your orator will show the source of his and the said William T. Barker's title in said land; first giving that of the said William T. Barker, and then that of your orator: Now as to said William T. Barker's title is as follows; to-wit:

1st: One James H. Davidson, and wife by a deed dated the 12th the day of July, 1897 conveyed a tract of land said to contain 270 acres to Joel Barker, and M. G. Ely, A certified copy of which deed is here filed marked exhibit "A" as a part of this bill; and,

2nd: Said M. G. Ely and wife by a deed dated the <sup>16</sup> day of May 190 4 conveyed his interest in said tract of land mentioned in said exhibit "A" to said William T. Barker, a certified copy of which deed is here filed and marked exhibit "B" as a part of this bill.



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Now as to the title of your orator in the said land, it is as follows; to-witt.

1st: Said James H. Davidson, and wife as shown in said exhibit "A" conveyed said land jointly to said Joel Barker, and M. G. Ely, and,

2nd: Said Joel Barker, by a deed, dated the 6th, day of January 1906, and of record in the Clerk's office of this county in D. B. #43, page #42 and etc. conveyed his interest in said land to your orator; the original deed is here filed, marked exhibit "C" as a part of this bill.

It will be observed from an inspection of the above title papers of both your orator and said William T. Barker, that they on their face purport to convey the whole and entire estate in said land and not a moiety only as they should have done; yet your orator is advised that said conveyances cannot and do not convey a greater estate in said land than each grantor rightfully had and owned at the time of said conveyances, see section 2419 of code.

Your honor will observe that each of said conveyances mentioned in exhibit "A" "B" "C" purport to convey a boundary of land containing 270 acres. But your orator alleges that the whole of said 270 acres tract, was held by a title paramount by one James Barker, who is now claiming and your orator supposes from his information is rightfully claiming the whole of said 270 acres, except said nine acres described.

Your orator will further show and allege, that said William T. Barker, and his wife Sarah, by a deed dated the 20th, day of December 1905, without the knowledge and consent of your orator conveyed to the Black Mountain Railway Co., a strip of said nine acre tract, one-hundred feet wide in consideration of the sum of \$ \_\_\_\_\_ which said Railway Co., paid him without notice either actual or constructive that your orator and his said grantor Joel Barker, owned a one-half undivided interest in the same. A copy of which deed is here filed and marked exhibit "D" and prayed



to be taken as a part of this bill.

Your orator will further allege and show, that shortly after said William T. Barker, made his said conveyance to the said Railway Co., it contracted the grading and construction of a railroad on and over said one-hundred feet wide strip, and one Ross, rented a portion of said nine acres from said William T. Barker, for a camp, for which said Ross, agreed to pay and did pay to said William T. Barker, the sum of )\$110.00) one-hundred and ten dollars. And your orator alleges that he has repeatedly called upon said William T. Barker, to pay him one half of said sum of money which he got from said Railway Co., for its said right of way through said nine acre tract of land and said Ross, but up to this time he has only paid your orator (\$50.00) fifty dollars of the same; and that there is yet owing to your orator on account of said sums paid him the sum of \_\_\_\_\_ which your orator is advised he is entitled to either have judgment against said William T. Barker, or else enough land assigned him out of the moiety of said William T. Barker, to pay him the said sum-

The premises aforesaid considered your orator is advised that he is without remedy at law and can only have relief in equity as aforesaid, and that he therefore prays, that the said William T. Barker, be made a party defendant to this bill of complaint; and that he be required to answer the same, but not on oath as that is expressly waived; and that your honor will decree a partition of said tract of land between your orator and said defendant, provided that it is susceptible of partition; but if said tract of land is not susceptible of partition then your honor prays that the same be sold and the proceeds of sale therefor be divided between them; and your orator further prays that there be an accounting between your orator and said defendant, on account of said William T. Barker, selling said right of way to said Railway Company and on account of his renting said land to said Ross, a judgment for the



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amount be given him against said Barker, and the same be declared lien upon said William T. Barker's, in the said nine acre tract of land, and that all other and further remedy and relief as is consistant with equity and the case requires be awarded to your orator herein. And he will ever pay and etc.

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The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

*W. L. Barker*

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on

the *1<sup>st</sup>* Monday in *March*, 190*8*, to answer a bill in chancery exhibited against *him*

*by Henry A. Barker*

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *24<sup>th</sup>*

day of *Jan*, 190*8*, and 1*32<sup>nd</sup>* year of the Commonwealth.

A Copy, Teste:

*H. C. T. Ewing*, Clerk

, Clerk



Harry A. Barker

VS

}

SUBPOENA  
IN  
CHANCERY

W. J. Barker

Pen. Pro., p. q.

To

1st March

Rules

See Circuit

Court

1908  
Executed by serving  
copy on W. J. Barker at  
Appalachia this Feb  
14, 1908 W. J. Tucker S. L. C.



Henry A. Bortner

vs Bice

W. F. Bortner

1908 1<sup>st</sup> March Rules

Bill filed Spa.  
executed & D. N.

2<sup>nd</sup> March Rules

D. N. Confirmed &  
cause set for hear-  
ing.

Costs:

clerk \$10.70

tax 1.50

shff. 3.00

att'y. 15.00

Comm. &c. 12.50

\$42.70



To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County, Virginia.

Humbly complaining your orator Henry A. Barker, a citizen of Lee County, Virginia, respectfully represents and sheweth unto your Honor as follows:

First: That heretofore your orator and one William T. Barker were the joint owners of a small tract of land containing about nine acres, lying and being in Lee County, Virginia, in the Crab Orchard country, and on the waters of the North fork of Powell's river;

Second: That heretofore your orator instituted a suit in Chancery in your Honor's Court, the object of which suit was to have partitioned between your orator and the said William T. Barker the said tract of land; that said Chancery suit was duly matured and by various proceedings had in said cause said tract of land was partitioned by Commissioners, duly appointed by your Honor, between your orator and the said William T. Barker; that your orator herewith files a certified copy of the report of the Commissioners showing how they partitioned said tract of land and what parts thereof they assigned ~~to~~ to your orator and the said William T. Barker, marked exhibit "A" and prayed to be taken as a part of this bill and also certified copy of the order of the Court approving and confirming said report of partition as exhibit "B" and prayed to be taken as a part of this bill;

THIRD: That before said partition was made and while your orator and the said William T. Barker were the joint owners of said tract of land, the said William T. Barker took possession of the whole of the same and leased the whole of the same to a man by the name of Winfield, who under the directions and with the consent of the said William T. Barker, but without your orator's knowledge or consent, <sup>cut</sup> destroyed and removed a large quantity of the timbers <sup>from</sup> ~~off~~ said land of the value at



least of (\$50.00) fifty dollars, and your orator being entitled to a one-half undivided interest in said land would, as he is advised and alleges be entitled to have from the said William T. Barker the value of one-half of the timbers so cut, removed and destroyed off of said land; that is the sum of (\$25.00) Twenty-five dollars, which became due and payable to your orator on the first day of January, 1907; and is still due and owing to him;

Fourth: That the said William T. Barker also without the consent or knowledge of your orator about the first part of the year 1907 leased the whole of said tract of land, and before the same was partitioned as aforesaid, and while your orator was jointly interested therein, to a man by the name of Ross, who was a Railroad Contractor employed in and about the construction and building of the Black Mountain Railroad, for the sum of, as your orator is advised and alleges (\$110.00) One hundred and ten dollars; that the said Ross paid to the said William T. Barker said sum of One hundred and ten dollars (\$110.00) and your orator being entitled to a one-half<sup>undivided</sup> interest in said land at the time would have been entitled to the sum of (\$55.00) Fifty-five dollars, out of said Ross rentals, but no part thereof has ever been paid to him by the said William T. Barker or any other person, and the same is yet due and owing to your orator from the said William T. Barker;

Fifth; That the Black Mountain Railway Company in constructing its railroad through the Crab orchard ran a portion of its road through the said tract of land, and the said William T. Barker received for the right of way of said railroad<sup>through said land</sup> from said Railway Company the sum of sixty (\$60.00) dollars, and your orator being jointly interested in said land with the said William T. Barker was entitled to have one-half of the said sixty (\$60.00) dollars; that is the sum of thirty (\$30.00) dollars (but the said William T. Barker has never paid to your orator any part of said sixty dollars and the same is still due and owing to him, with interest thereon from the 1st day of January, 1906;



Sixth: That the said William T. Barker, before said land was partitioned as aforesaid, for the year 1908 used, occupied cultivated and rented said lands, <sup>which</sup> at a reasonable rent ~~was worth~~ the sum ( though your orator does not know how much the said William T. Barker really did get for the rents and profits of said land) of sixty-six (\$66.00) and your orator being entitled to a one half undivided interest in said land would be entitled, as he is advised, to (\$33.00) thirty-three dollars thereof which became due and payable to your orator on the 1st day of November, 1908; and is still due and owing to him.

SEVENTH: That in the partition of said lands by virtue of a decree entered in the above mentioned partition suit the said William T. Barker was directed and ordered by the Court to pay one half of the costs of the partition of said suit, and your orator alleges that he has paid the whole of the costs of said suit amounting to the sum of (\$52.70) fifty-two dollars and seventy cents; he paid the whole of said costs because he was advised that as plaintiff in said suit for partition he was liable primarily for said costs and now having paid them himself he is advised that he is entitled to recover one half of the said costs that is the sum of (\$26.35) twenty-six dollars and thirty-five cents, from the said William T. Barker. Your orator paid said costs on the 13th day of January, 1909 and therefore he is advised that said sum should bear interest from that date; and he <sup>due and</sup> alleges that the said William T. Barker is still owing him the sum of (\$26.35) twenty-six dollars and thirty-five cents with interest as aforesaid from the 13th day of January, 1909;

EIGHT: Your orator will further show unto your honor that the said William T. Barker some two or three years ago was in the mercantile business at Keeokee, Virginia; that while he was in said mercantile business your orator ran an account in said William T. Barker's store under the agreement that whatever goods and merchandise he should get from said William T. Barker's store should be credited upon the said William T. Barker's indebtedness to your orator arising out of the said sev-



eral items of indebtness; that the said William T. Barker after your orator had made an account with him at his store aforesaid for the sum of \$58.54 ~~dollars~~ the said William T. Barker refused to give him credit for said ~~xxxxxxxxxxxxxxxxxxxx~~ upon the amount which the said William T. Barker was owing to your orator and on the 7<sup>th</sup> day of March, 1908, took a judgment against your orator for said sum of money, which judgment still stands against your orator unpaid;

Your orator alleges that all of his items of charge against the said William T. Barker as above set forth amount in the aggregate to the sum of (\$169.35) One hundred and sixty-nine dollars and thirty-five cents, and giving the said Barker credit for the said sum of \$58.54 ~~dollars~~ there would be left due and owing to your orator the sum of \$110.81 dollars, which is still due and owing to your orator;

Your orator charges and alleges that the said William T. Barker has left the Commonwealth of Virginia, and is now and has been for several months a nonresident of this State; that the only property owned by the said William T. Barker is this County in so far as your orator has any knowledge is that part of said tract of land assigned to him in the above mentioned Chancery suit and shown and described in said exhibit "A"; and that your orator is advised and informed that the said William T. Barker has been offering and trying to sell said land for the purpose of converting the same into money with the intent to hinder, delay and defraud your orator in the collection of his said debts.

Now the object of this bill is to have the said William T. Barker's said land mentioned and described in said exhibit "A" attached or enough thereof attached to pay your orator's said claims and debts; that he has in due form of law made oath to this bill and that he adopts the same as ~~affidavit~~ and for the affidavit by law in ~~such~~ order to obtain the issuance of such attachment; that on the final hearing of this case your orator



be given a judgment for his said several sums of money against the said William T. Barker, if the same be not paid in a reasonable time <sup>the said land of</sup> the said William T. Barker's ~~land~~, or enough thereof to pay your orator's said claims and debts, be sold on proper orders to be made herein by your Honor.

Your orator alleges that he is entitled to and ought to recover at the least from the said William T. Barker the said sum of one hundred and sixty-nine dollars and thirty-five cents (\$169.35) with interest thereon from the first day of January, 1909 till paid, subject to a credit of \$58.54 dollars as of the 7<sup>th</sup> day of March 1908 and the costs of this suit, the amount of said store account and judgment.

The premises considered the prayer therefore of your orator is that the said William T. Barker be made a party defendant to this bill of complaint; that he be required to answer the same, but he need not do so on oath as that is expressly waived; that an attachment be issued hereto against the said William T. Barker for the amount of your orator's said debts and claims, to-wit, for the sum of One hundred and sixty-nine dollars and thirty-five cents (\$169.35) with interest thereon from the first day of January, 1909, subject to a credit of \$58.54 dollars as of the 7<sup>th</sup> day of Mar, 1908; and that such attachment be levied upon the said land of the said William T. Barker, or enough thereof to pay your orator's said debts and the costs of this suit; that a judgment be given your orator herein against the said William T. Barker for said sum of money, and enough of

his estate and effects so attached be sold in the manner provided by law to satisfy the same. And that all other, further and general relief be awarded your orator that the nature of his cause may require and he will ever pray, etc.,

Dunnington Bros. D.C.



Virginia,

Lee County, to-wit,

I, Henry A. Barker, the complainant in the above  
bill being duly sworn says that the facts and allegations  
therein contained are true, except in so far as stated therein  
upon information of others, and in so far as stated upon the  
information of others he believes them to be true.

Henry A. Barker

Subscribed and sworn to before me

this the 18<sup>th</sup> day of Feb, 1909.

H. L. Hueff, J. P.



Virginia,

At the Circuit Court continued and held for Lee County,  
at the Court house thereof, on Friday, the 11th day of September,  
1908.

Henry A. Barker

Plaintiff.

vs.

W. T. Barker

Defendant.

This cause came on this day to be heard upon the bill of the complainant and the exhibits filed therewith, the answer of the defendant and exhibits filed with his answer, and the exceptions of said complainant to said answer, and was argued by counsel.

On consideration of all which and for reasons appearing to the Court, the exceptions of said complainants to said defendant's answer is sustained, and the defendant filing no further answer in this cause on motion of the complainant by his counsel, this cause came on to be heard, and thereupon it is adjudged, ordered and decreed that W. E. Thompson, Samuel Edens, W. S. Palmer, E. M. Bledsoe and T. L. Page, who are hereby appointed commissioners for the purpose, any three of whom may act) and after being duly sworn as required by law, shall go upon the land in the bill and proceedings mentioned and partition the same, if the same can be done, between the said complainant and defendant; assigning to the said complainant one-half of said land in value, and to the said defendant the other half in value; and when they shall have made said partition, they will report their action to Court. And this cause is continued.

A copy.

Teste: H. C. T. Ewing, Clerk.

Exhibit "A"



=====  
Henry A. Barker,  
vs.  
W. T. Barker.  
=====

Chancery.

*Exhibit "A"*

To H. A. W. Skeen, Judge of the Circuit Court for Lee County.

At a Circuit Court continued and held for Lee County at the Court House thereof on the 11th day of September, 1908.

It was ordered and decreed in the above styled cause that W. E. Thompson, S. P. Edens, W. S. Palmer, E. M. Bledsoe and T. L. Page who are hereby appointed commissioners for the purpose (any three of whom may act) shall go upon the lands in the bill mentioned and partition the same of the same can be done between the said complainant and defendant, assigning to the said complainant one-half of said land in value, and the said defendant the other one-half in value.

Your undersigned Commissioners beg leave to report that the 24th day of November, 1908, we did go upon the lands mentioned in the above bill and after being duly sworn did survey and partition the same as follows: We laid off and assigned to the plaintiff, Henry A. Barker one-half in value of the lands lying on the north side of the Black Mountain railroad shown on plat in red. Said plat is<sup>filed</sup> herewith as a part of this report, and bounded as follows; BEGINNING at a stake at the junction of the little Crab-orchard creek and North Fork of Powell's river a corner to Jim Barker's lands. Shown on plat at "A". thence S. 3 W. 300 feet to a stake "B"; S. 77 1/2 W. 220 ft. to a stake in the North Fork at "C"; thence north east with the meanders of said Fork about 600 ft. to the BEGINNING, containing two acres more or less. Shown on plat as No. 1.

We also assigned to the said Henry A. Barker Lot No. 4 shown on plat, it being that part of said tract lying on the South side of the railroad. Bounded as follows: BEGINNING at a stake on South line of the Black Mountain railroad right of way and on James Barker's line at "G", with the same S. 3 W. about 600 ft. to a stake on the Taylor



line with the same N. 51 W. 300 ft. to the right of way, then with the south line of said right of way about 400 ft. to the BEGINNING. Containing one acre more or less.

We then laid off and assigned to Wm. T. Barker the other one half in value of the bottom land on the north side of the said railroad. Shown on plat as No. 2. and bounded as follows: {BEGINNING at a stake on James Barker's line a corner to Lot No. 1 shown on plat as "B"; thence with James Barker's line S. 3 W 300 ft. to a stake in North Fork "E" Thence with the meanders of the Fork about 500 ft. to a stake at "C" corner to lot No. 1; thence with the same N. 77 1/8 E. 220 ft. to the BEGINNING, containing 2 1/8 acres, more or less. }

We also assigned to W. T. Barker that part of said tract lying north of the Railroad and on the south side of the North Fork shown as lot No. 3 {Beginning at a stake where James Barker's line edge the North Fork shown at "E"; thence with the North line of the Black Mountain right of way a distance of about 550 ft. to the Taylor line with the same N, 51 W. 50 ft. to a stake in the North Fork; thence with the same about 575 ft. ( north east, to the BEGINNING. Containing about one-half acre , more or less. ) }

All of which is respectfully submitted.

W. E. Thompson	)	Com.
S. P. Edens		
E. M. Bledsoe		

Cost of petition.

W. E. Thompson	two days	\$6.00
S. P. Edens	" "	4.00.
E. M. Bledsoe	One day	2.00.
		<hr/>
		\$12.00.
Robt. Slomp	axman	50.
		<hr/>
		\$12.50.



Henry A. Barker .....Plaintiff.

vs.

Decree.

W. T. Barker .....Defendant.

This cause came on this the 8th day of December, 1908, to be further heard upon the papers formerly read there in and the report of Commissioners W. E. Thompson, S. P. Edens and E. M. Bledsoe, filed in this case on the 28th day of November, 1908, and was argued by counsel.

On consideration of all which and for reasons appearing to the Court and said report not being accepted to, it was adjudged, ordered and decreed that said report and plat attached thereto be and the same are hereby confirmed; and that Henry A. Barker, the plaintiff in this cause take and hold in fee simple lots No. 1 & 4 as shown upon said plat and as defined by meets and bounds in said report, and that W. T. Barker, the defendant in this cause, take and hold lots No. 2 & 3 as shown on said plat and as described in said report by meets and bounds. And it is further adjudged, ordered and decreed that the Clerk of this Court will record in the proper deed book the order in this cause, appointing said Commissioners, said report and plat above referred to and this order showing confirmation thereof. It further adjudged, ordered and decreed that the costs of this cause be equally divided between said plaintiff and said defendant; that is, the said plaintiff shall pay one-half thereof and the defendant the other one-half thereof. If the said defendant does not pay this proportionate part of said costs within the next thirty days, then and execution may issue against him for the same in favor of the officers of this Court. There being nothing further to be done herein it is ordered that this cause be and is hereby stricken from the docket, but without prejudice to the rights of the plaintiff on his charge of rents, profits and timbers alleged to have been taken by the defendant from off of said

Exhibit  
"B"



land. The plaintiff if so advised may bring xxxxxx his  
action at law on said charges hereafter.

Virginia,

Lee County, to-wit;

In the Clerk's Office for Lee County, on this  
the 14th day of January, 1909, the foregoing decrees, com-  
missioners' report and plat were presented, and admitted  
to record.

Teste: H. C. T. Ewing, Clerk.

Recorded in Deed Book No. 48, page 39, etc.



Henry A. Barker  
vs } Foreign Bill  
of  
Attachments

Wm. T. Barker

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Birmingham Bros. P. G.

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Filed Feb. 19, 1909.

J. A. Ewing, Clerk

1909 2<sup>nd</sup> March Rule

Spa. not executed  
Def't being a non-  
resident, attachment  
served & Court for O.P.

" 1<sup>st</sup> April Rule  
O.P. completed &  
Cause set for hearing.

Costs:

Clerk \$9.12  
Tax 1.50  
Atty. 15.00  
Shff. 1.00  
Printer 14.00  
~~Estimated 5.00~~  
\$44.62



To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County, Virginia.

The answer of William T. Barker to a bill exhibited in your Honorable Court by one Henry A. Barker for answer thereto, or as much as it is necessary that he is advised to answer. Answering, he says that it is not true that Henry Barker owns any interest in the land, which he purchased from M. G. Ely.

Your Respondent alleges that the interest of Henry A. Barker in the lands sought to be partitioned is in the residue of the 270 Acre tract. Your Respondent is advised and informed that this 270 Acre tract of land was patented in the name of S. S. Slomp deceased, and Elkanah Flanary, deceased, that at their death it descended to their heirs. That Campbell Slomp and H. C. Slomp conveyed their one-fifth interest each to \_\_\_\_\_ McKinney, who conveyed the same to Joel Barker. Joel Barker sold and conveyed the said two-fifths interest in one-half to James H. Davidson. James H. Davidson sold and conveyed said two-fifths in one-half to Joel Barker and M. G. Ely. M. G. Ely, sold his interest to the Respondent, Joel Barker sold his interest to Henry A. Barker. Henry A. Barker took considerable timber off the said land, for which he never accounted, to-wit, something like \$100.00 worth. It is possibly true that the title to the most of the 270 Acre tract is in dispute and all of it, except about 5 or 9 Acres, is held by other parties.

Your Respondent denies that the said Henry A. Barker has any right to have the said 5 or 9 Acres partitioned, but if he has, he should be compelled to amend his bill, and make the heirs of Elkanah Flanary, deceased, and the other heirs of S. S. Slomp, deceased, parties to said bill and have the whole of said tract partitioned and the question of title settled, but if he means to insist on having the 5 or 9 Acre tract partitioned the said Henry Barker would be only entitled to one-fifth of one-half of said 5 or 9 Acres, and when he accounts for what he has received from the land, he will not be entitled to anything, which your Respondent has received for right of way, &c.



Your Respondent alleges that pursuant to the terms of his deed ~~to~~ <sup>from</sup> the said M. G. Ely, is entitled to the whole peaceable possession of the said 5 or 9 Acres, and he denies that he has received any of the amounts or sums of money due, set out in said Complainants bill. If there is any part of the same due Henry Barker, your Respondent alleges that the said Henry Barker is indebted to him in a greater sum, <sup>than</sup> any amount, which might be found due him to said Barker, and your Respondent asks that the said Henry Barker be required to file his amended bill and bring in all the other parties who are entitled to interest in said peice of land. Said interest are <sup>in a chancery cause lately</sup> all fully set out, <sup>Eligible</sup> dismissed in your Honorable Court, styled E. S. Flanary and others and ~~C. D.~~ Stout and others.

Your Respondent now prays to be dismissed with his reasonable costs in that behalf expended, and he will ever pray &c.

M. G. Ely p. d.



The plaintiff by his counsel accepts to  
this answer in so far as the same  
seeks to deny plaintiff's title and sets  
up that the heirs of Elkannah Flanary  
& S. S. Slumps heirs should be made  
parties defendants to plaintiff's bill; because

- (1) The plaintiff & defendant claim  
title to said land through a com-  
mon source to wit from James H.  
Davidson & wife by a deed dated July  
1st 1897, and
- (2) Said defendant in his answer  
does not set out who are the heirs  
of said Flanary & Slump or any thing  
there

Chamington Brook, N.Y.

M. J. Parker

at { answer

H. A. Barker

Filed 2nd Apr. 1908.

J. H. G. Cowing,  
Clerk.



=====#  
Henry A. Barker, Complainant. #  
Vs. # In Chancery.  
Wm. T. Barker, Defendant. #  
=====#

This cause came on this the \_\_\_\_\_ day of December, 1909, to be further heard upon the papers formerly read herein and the report of Commissioner E. W. Pennington filed herein on the ~~xxx~~ \_\_\_\_\_ day of November, 1909, and was argued by counsel.

On consideration of all which, and for reasons appearing to the Court and said report being unaccepted to, it is hereby adjudged, ordered and decreed that said report and sale of said lands to the said Henry A. Barker be, and the same are hereby approved and confirmed.

It is further adjudged, ordered and decreed that E. W. Pennington, who is hereby appointed a commissioner for the purpose, will make to the said Henry A. Barker a good and sufficient deed to said lands, with covenants of General warranty. And it appearing that the said Pennington has so executed and made to the said Barker a deed to said lands, it is adjudged, ordered and decreed that said deed be and the same is hereby approved and confirmed.

And it is adjudged, ordered and decreed that a writ of possession for said lands be and is hereby awarded to the said Henry A. Barker to be issued by the Clerk of this Court upon the request of the said Henry A. Barker.

And it is further adjudged, ordered and decreed that the said E. W. Pennington out of the amount so paid to him by said Henry A. Barker will pay the costs of this suit and commissions of sale. And he having done so, it is ordered that his report of payments be, and the same are hereby approved and confirmed.

There being nothing further to be done in this cause it is ordered that the same be, and the same is hereby stricken from the docket.



Henry A. Barker

vs } Decease  
final

Wm J. Barker

Entered in C.B.  
No. 8, page 548tc

Enter this  
Dec 6<sup>th</sup> 1909  
H. C. W. Oliver



Henry A. Barker                  Complainant  
vs                                      In Chancery  
Wm. T. Barker                  Defendant

The defendant, Wm. T. Barker, who is a non-resident of this State and against whom the complainant appears to have proceeded in the manner provided by law against non-resident defendants, and he still failing ~~to~~ answer on motion of the complainant by counsel the court doth take his bill for confess<sup>es</sup> as to said defendant.

And thereupon this cause coming on to be heard on this the \_\_\_\_\_ day of September, 1909, upon the bill of the complainant and exhibits filed herewith, and attachments sued out herein, which was duly served and levied on the 19th day of February, 1909 by the Sheriff of this county upon certain real-estate lying and being in Lee County, Virginia, and fully described in the return of W. Y. Tucker, Sheriff of Lee County, and was argued by Counsel. On consideration of all which and for reasons appearing to the court it is adjudged, ordered and decreed that the said complainant recover of the said defendant the sum of \$169.35, with interest thereon from the 1st day of January, 1909 till paid, subject to <sup>a</sup> credit of \$58.54, as of the 7th day of March, 1908, and the cost of this suit, said credit being the amount of a certain judgement which the said defendant recovered of the complainant before a Justice of the Peace of this county, and was for a store account. It is further adjudged, ordered and decreed that the said complainant has a lien upon the lands shown in the said sheriff's return by virtue of the attachment aforesaid for said sum of \$169.35 with interest thereon from the 1st day of January, 1909 till paid, and the cost of this suit subject however, to the said credit of \$58.54 as of the 7th day of March, 1908.

And it further appearing to the court that the said defendant has not been personally served with process ~~for~~ sixty days before this day nor has appeared in this cause, it is adjudged, ordered and decreed that the said complainant will execute a bond before the clerk of this court in the sum of \$300.00 with sufficient surety with a condition to perform such future order of the court



as may be made upon the appearance of the said defendant and his making defense hereto before he shall be entitled to the benefits of ~~this~~ decree.

And it is further adjudged, ordered and decreed that if the said defendant or someone for him doesnot pay the said sum of money and the costs of this suit within thirty days from this date (provided the complainant has executed the bond aforesaid) then, E. W. Pennington who is hereby appointed a special commissioner for the purpose after advertising the time, terms and place of sale for at least thirty days at three or more public places in this county by posting written or printed notices of such sale, one of which shall be posted at the front door of the court house, one in the town of Pennington Gap, one in the neighborhood of said lands and at such other places as he may deem proper for thirty days, ~~at~~ the front door of the court house he will at public out-cry and to the highest and best bidder offer the lands in the return of said sheriff described for sale, or enough thereof to pay said debt and the cost of this suit, <sup>and Commissions of Sale</sup> on a credit of six to twelve months, except a sum sufficient to pay the cost of this suit and comminnions of sale, he will require to be paid down and for the deferred payments he will take notes payable to himself bearing interest from date of sale, and with good personal recurity, and he will report his action to court, But before making such sale said Pennington will execute a bond before the clerk of this court in the <sup>final</sup> sum of \$300.00 with a condition to faithfully perform his duties as commissioner and to account for all monies which may come into his hands as such commissioner. And this cause is continued.



H.A. Barker  
vs { Deen

Wm. J. Barker

Entered in COB.  
# 8, page 514 ve.

Enter this  
Sept 14, 1909.

H. A. W. Silver



Henry A. Barker .....Plaintiff.

Vs.

Decree.

W. T. Barker.....Defendant.

This cause came on this the 28th day of December, 1903, to be further heard upon the papers formerly read therein and the report of Commissioners W. E. Thompson, S. P. Edens, and E. M. Bledsoe, filed in this cause on the 28th day of November, 1903, and was argued by counsel.

On consideration of all which and for reasons appearing to the court and said report not being accepted to, it is adjudged, ordered and decreed that said report and plat attached thereto be and the same are hereby confirmed; and that Henry A. Barker, the plaintiff in this cause take and hold in fee simple lots No. 1 & 4 as shown upon said plat and as <sup>defined &</sup> ~~they find~~ by meets and bounds in said report, and that W. T. Barker, the defendant in this cause, take and hold lots No. 2 and 3 as shown on said plat and as described in said report by meets and bounds. And it is further adjudged, ordered and decreed that the clerk of this court will record in the proper deed book the order in this cause, appointing said commissioners, said report and plat above referred to and this order showing confirmation thereof. It is further adjudged, ordered and decreed that the costs of this cause be equally divided between said plaintiff and said defendant; that is, the said plaintiff shall pay one-half thereof and the defendant the other one-half thereof. If the said defendant does not pay his proportionate part of said costs within the next thirty days, then an execution may issue against him for the same in favor of the officers of this court. There being nothing further to be done herein it is ordered that this cause be and is hereby stricken from the docket,

*But without prejudice to the rights of the plaintiff on his charge of profits & profits & damages alleged to have been taken by the defendant from off said land. The plaintiff is so advised & may bring his action at law on said charges.*



Virginia, Lee County, to-wit:

In the Clerk's office of Lee County, on this the 14th day of January, 1909, the foregoing decrees, commissioners' report and plat were presented, and ~~XXXXXXXXXXXX~~ admitted to record.

Teste: W. L. Williams Clerk.

H. A. Barker

vs } Decree Final

H. T. Barker

Entered in C.O.B.  
#8, page 413 re.

Recorded in Deed  
Book 48, page 39 re  
Examined Jan 15, 1909  
Indefeet.

Enter this

Dec 8 - 1908

H. A. Williams



Henry A. Barker .....Plaintiff.

Vs.

W. T. Barker.....Defendant.

This cause came on this day to be heard upon the bill of the complainant and the exhibits filed therewith, the answer of the defendant and exhibits filed with this answer, and the exceptions of said complainants to said answer, and was argued by counsel.

On consideration of all which and for reasons appearing to the court, the exceptions of said complainants to said defendants answer is sustained, and the defendant filing no further answer in this cause on motion of the complainant by his counsel, this cause came on to be heard and thereupon it is adjudged, ordered and decreed that W. T. Thompson, Samuel Edms., W. S. Palmer, E. M. Blake and T. L. Page, who are hereby appointed commissioners for the purpose, (any three of whom may act, and after being duly sworn as required by law) shall go upon the land in the bill and proceedings mentioned and partition the same, if the same can be done, between the said complainant and defendant; assigning to the said complainant, one-half of said land in value, and to the said defendant the other half in value; and when they shall have made said partition, they will report their action to court. And this cause is continued.



Henry T. Barker

vs } Secret

W. T. Barker  
Entered in C.C.B.  
# 8, page 394.

Entered this  
Sept 11, 1908  
H. C. C. S. S. S.



Virginia:

In the Clerk's Office of the Circuit Court of Lee County  
on the 19<sup>th</sup> day of February, 1909, ~~at Rules~~

Henry A. Barker, Complainant, #

vs. #

In Chancery. #

William T. Barker, defendant, #

The object of this suit is to recover from the  
said defendant, William T. Barker, the sum of (\$169.35) one  
hundred and sixty-nine dollars and thirty-five cents, with  
interest thereon from the first day of January, 1909, subject  
to a credit of \$58.54 ~~dollars~~, as of the 7<sup>th</sup> day  
of March 1908. and also to attach the following real estate  
of the said William T. Barker ~~x~~, lying and being in Lee County,  
Virginia, in the Crab Orchard country and on the waters of the  
North Fork of Powell's river ~~and bounded~~ as follows: to-wit:

First: A tract of land described as lot No. 2 in the  
plat of said lands in the late Chancery cause of Henry A. Bar-  
ker vs. William T. Barker and bounded as follows: to-wit:  
BEGINNING at a stake on James Barker's line a corner to lot  
No. 1 shown on plat as "B", thence with James Barker's line  
S. 3 W. 300 ft. to a stake in the North Fork "E"; thence with  
the meanders of the Fork about 500 ft. to a stake at "C" corner  
to lot No. 1; thence with the same N. 77 1/2 E 220 ft. to the  
BEGINNING, containing 2 1/8 acres, more or less.

SEcond: Lot No. 3 assigned to said William T. Barker  
in said Chancery cause and bounded as follows, to-wit: BEGIN-  
NING at a stake where James Barker's line edges the north Fork  
shown at "E"; thence with the ~~North~~ line of the Black Mountain  
right of way a distance of about 550 ft. to the Taylor line,  
with the same N 51 W. 50 ft. to a stake in the North Fork; thence  
with the same about 575 ft (North east) to the BEGINNING. Con-  
taining about one-half acre, more or less.

And an affidavit having been made and filed that the



defendant, William T. Barker, is a nonresident of the State of Virginia, and an attachment having been issued and returned executed in this cause, it is therefore ordered that the defendant William T. Barker, appear here within fifteen days after due publication of this order and do what is necessary to protect his interest in this cause; and it is further ordered that a copy of this order be published once a week for four successive weeks in the Jonesville Star, a news paper printed in the town of Jonesville, in the County of Lee; and also a copy thereof be posted at the Front Door of the Court-house of said County, as ~~pre~~scribed by law.

A copy

Teste:

*H. O. P. Ewing, Clerk.*

Pennington Bros., P.O.



Henry A. Barker  
vs } Order of  
Publication

Wm. J. Barker

Virginia, Lee County, to-wit:

I, H. A. Ewing, Clerk of the  
Circuit Court for the County  
aforesaid in the State of  
Va, do certify that I posted  
a true copy of the within  
order of publication at  
the front door of the Court-  
house of said County,  
on this day.

Given under my hand,  
This February 20<sup>th</sup>, 1909.

H. A. Ewing,  
Clerk.



Virginia,

At a Circuit Court continued and held for Lee County, at the Court-house thereof, on Friday, the 11th day of September, 1908.

Henry A. Barker

Plaintiff

Vs.

W. T. Barker

Defendant.

This cause came on this day to be heard upon the bill of the complainant and the exhibits filed therewith, the answer of the defendant and exhibits filed with his answer, and the exceptions of said complainant to said answer, and was argued by counsel.

On consideration of all which and for reasons appearing to the court, the exceptions of said complainants to said defendant's answer is sustained, and the defendant filing no further answer in this cause on motion of the complainant by his counsel, this cause came on to be heard and thereupon it is adjudged, ordered and decreed that W. E. Thompson, Samuel Edens, W. S. Palmer, E. M. Bledsoe and T. L. Page, who are hereby appointed commissioners for the purpose, (any three of whom may act, and after being duly sworn as required by law) shall go upon the land in the bill and proceedings mentioned and partition the same, if the same can be done, between the said complainant and defendant; assigning to the said complainant one-half of said land in value, and to the said defendant the other half in value; and when they shall have made said partition, they will report their action to court. And this cause is continued.

A copy,

Teste:

*H. C. I. Ewing*, Clerk.



Henry W. Barker  
vs. Copy of Decree.  
H. P. Barker.

---

A copy for return of  
Sheriff.

Executed on the 10<sup>th</sup>  
day of Oct. 1908 by  
deleting true  
copies of the within  
decree to H. P. Barker.  
San. Samuel Adams  
H. S. Palmer E. M.  
Bridson and S. L.  
Page

E. S. Stapleton S. L.  
H. P. Barker  
S. L. C.



Virginia,

Lee County, to-wit:

This day Henry A. Barker appeared in person before me a Justice of the Peace in and for the County and State aforesaid and made oath that William T. Barker against whom he is about to institute a suit in Equity in the Circuit Court for the said County of Lee, is a nonresident of this Commonwealth.

Given under my hand this the 18<sup>th</sup> day of ~~Jan~~ - February  
~~my~~, 1909.

F. R. Herff J.P.



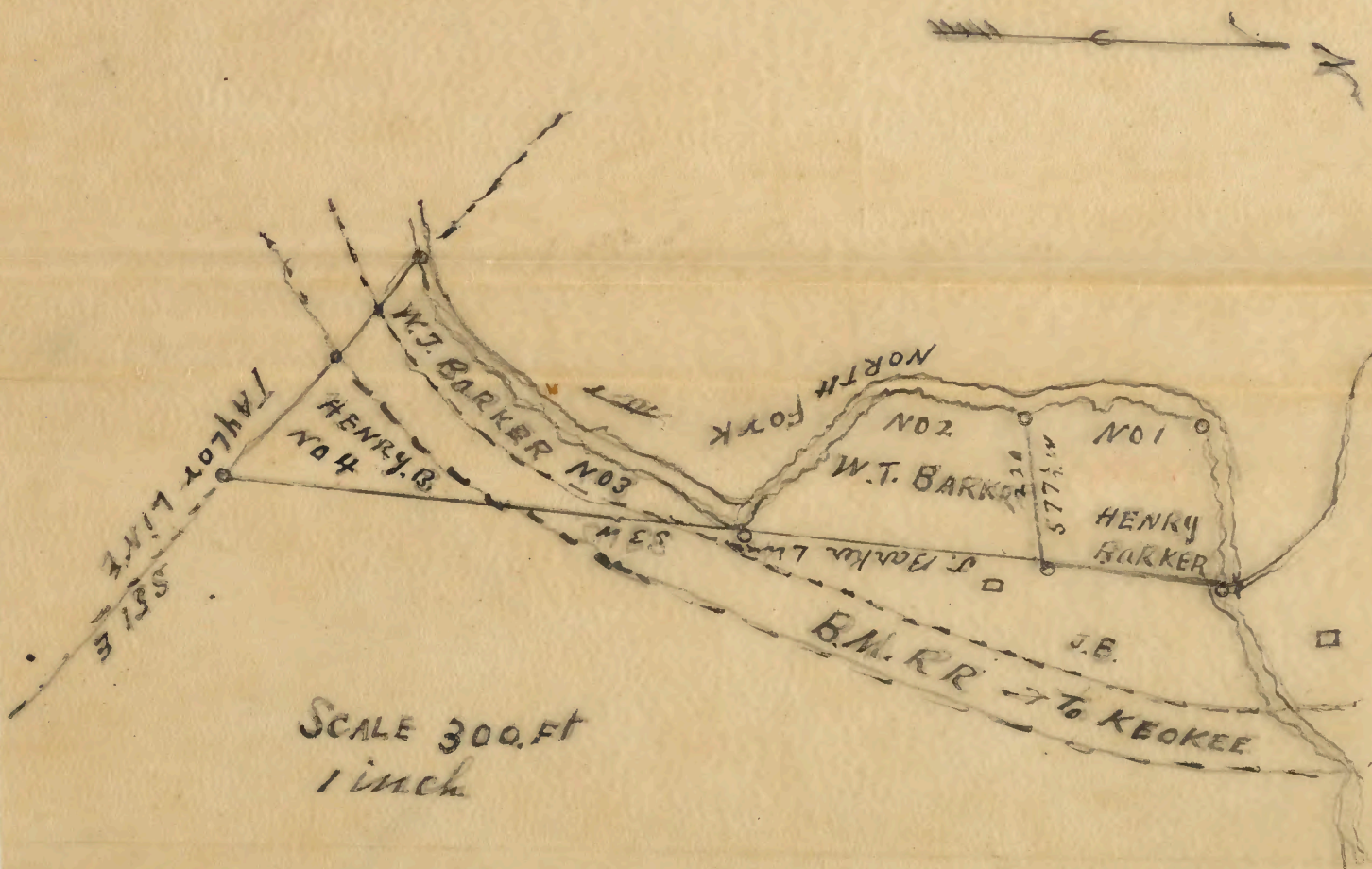
Henry A. Barker  
Affidavit  
vs { of nonresidence

Wm. T. Barker

Filed Feb. 19<sup>th</sup>, 1909.

W. C. Ewing,  
Clerk







Henry A. Barker  
U.S. } Chancery.  
W. J. Barker.

To H. A. W. Skeen Judge  
of the Circuit-Court of Lee County  
at a circuit-court continued and held  
for Lee County at the Court House thereof  
on the 11<sup>th</sup> day of September 1908

It was ordered and decreed in the above  
styled Cause That W. E. Thompson S. P. Edens  
W. S. Palmer. E. M. Bledsaw and T. L. Page  
who ~~was~~ are hereby appointed Commissioners  
for the Purpose (any three of whom may act)  
shall go upon the Lands in the Bill mentioned  
and partition the same if the same can be done  
between the said Complainant and defendant  
assigning to the said Complainant one half  
of said Land in value. and to the said defendant  
the other one half in value.

Your under Signed Commissioners beg leave  
to report that the 24<sup>th</sup> day of November 1908  
we did go upon the Lands mentioned  
in the above Bill and after being duly  
sworn did survey and partition the same  
as follows. We Layed off and assigned  
to the Plaintiff Henry A. Barker one half in value  
of the Lands Lying on the North Side of the  
Black Mountain Road shown on Plat



in Red. Said Plot is filed here with as a part of this report. and Bounded as follows Beginning at a stake at the Junction of the Little Craborchard creek and north fork of Powell River a corner to Jim Barkus Lands.

Shown on Plot at A. Thence S 3 W. 300 Feet to a stake B. S 77  $\frac{1}{2}$  W. 220 feet to a stake in the North Fork at C Thence North East with the meanders of said fork about 600 feet to the Beginning containing two acres more or Less. Shown on Plot as No 1.

We also assign to the said Henry A Barker Lot No 4 Shown on Plot it being that part of said Tract Lying on the South Side of the Rail Road. Bounded as follows Beginning at a stake on South Line of the Black Mountain Railroad right-of way and on James Barkus Line <sup>at A</sup> with the same

S 3 W about 600 ft to a stake on the Foyler Line with the same. N 51 W 300 ft to the Right-of way then with the South Line of said right-of way. about 400 ft. to the Beginning. containing 1 acre more or Less. We then Layed off and assigned to Wm. J. Barker the other one half in value of the Bottom Land on the North Side of the said Rail Road. Shown on Plot as No 2 and Bounded as follows, Beginning at a stake on James Barkus Line a corner to Lot No 1 Shown on Plot at B. Thence with James Barker Line S 3 W. 300 ft to a stake in North Fork <sup>E</sup> Thence with the meanders of the fork



about 500 ft- to a stake at C Corner to Lot-  
 No 1 thence with the same N 77½ E 220 feet to  
 the Beginning containing 2½ acres more or less.  
 We also assign to W.T. Barker that part of said  
 Tract Lying north of the Rail Road and on  
 the South Side of the North Fork shown as Lot-  
 No 3 Beginning at a stake where <sup>James</sup> Barkers Line  
 Edge the North Fork shown at E thence with  
 the North Line of the Black Mountain Right-  
 of way a distance of about 550 ft- to the Taylor  
 Line with the same North 51 W. 50 feet to a stake  
 in the North Fork thence with the same about  
 575 feet (North East) to the Beginning.

containing about one half acre more or less.

all of which is respectfully Submitted

W.E. Thompson.  
 S.P. Edens.  
 E.M. Bledsaw } Comd.

### Cost of Partition

W.E. Thompson	2 days.	6.00
S.P. Edens	2 "	4.00
E.M. Bledsaw	1 "	2.00
		<u>\$ 12.00</u>
Robt Slump axman		<u>50</u>
		\$ 12.50



Virginia,

At a Circuit Court continued and held for Lee County, at the Court-house thereof, on Friday, the 11th day of September, 1908.

Henry A. Barker

Plaintiff

Vs.

W. T. Barker

Defendant.

This cause came on this day to be heard upon the bill of the complainant and the exhibits filed therewith, the answer of the defendant and exhibits filed with his answer, and the exceptions of said complainant to said answer, and was argued by counsel.

On consideration of all which and for reasons appearing to the court, the exceptions of said complainants to said defendant's answer is sustained, and the defendant filing no further answer in this cause on motion of the complainant by his counsel, this cause came on to be heard and thereupon it is adjudged, ordered and decreed that W.E. Thompson, Samuel Edens, W. S. Palmer, E. M. Bledsoe and T. L. Page, who are hereby appointed commissioners for the purpose, (any three of whom may act, and after being duly sworn as required by law) shall go upon the land in the bill and proceedings mentioned and partition the same, if the same can be done, between the said complainant and defendant; assigning to the said complainant one-half of said land in value, and to the said defendant the other half in value; and when they shall have made said partition, they will report their action to court. And this cause is continued.

A copy,

Teste:

H. C. P. Ewing, Clerk.



Henry A. Barker  
W. J. Barker  
A copy for

H. E. Thompson.

Recd. & Accepted

Oct 7/1908

By Signature

Put Slump 1 day 50

Same Edens 2 days 400

W 2 2 days 600

Blidson 1 day 1280

Com Report.

Filed Nov. 28, 1908.

W. J. Barker,  
Clk.

Recorded in Deed  
Book 48, page 40 & c  
Examined 1909  
Indexed.

160  
201  
190  
1473  
576  
36  
185  
288  
22



=====#  
Henry A. Barker, Complainant. #  
Vs. # In Chancery.  
Wm. T. Barker, Defendant. #  
=====#

To the Hon. H. A. W. Skeen, Judge of the Circuit Court  
for Lee County.

Your undersigned, who was on the 14th day of September, 1909.  
appointed a commissioner for the purpose, begs leave to report  
that after having duly advertised the time, terms and place of  
sale of the same for the time and in the manner required by  
said decree, on the 13th day of November, 1909, at the front  
door of the Court House of this County, he offered the land in  
the bill and proceedings mentioned for sale to the highest and  
best bidder, that at this sale said land was knocked down to  
said Henry A. Barker for the sum of (\$169.00) one hundred and  
sixty-nine dollars, which sum was only sufficient to pay the  
costs of this suit, commissions of sale and the debt decreed to  
the said complainant in this cause. Said Henry A. Barker on  
the purchase price of said land paid to your Commissioner the sum  
of (\$50.00) fifty dollars, ~~which~~ he lacked (\$2.65) two dollars,  
sixty-five cents paying to your commissioner a sum sufficient  
to meet costs of this suit and commissions of sale, but assured  
your commissioner that he would pay the said (\$2.65) two dollars  
sixty-five cents within a very short time. Your commissioner did  
not require said Henry A. Barker to execute to him a note for the  
unpaid part of the purchase price of said land because the residue  
of the purchase price therefor was going to the said Henry A. Bar-  
ker himself.

Your commissioner is not personally acquainted with the  
lands so sold by him, but is informed that the price bid by  
Henry A. Barker, which was the sum of (\$169.00) one hundred and  
sixty-nine dollars, is a reasonable ~~for~~ offer for the same and



therefore recommends a confirmation of this sale to the said  
Henry A. Barker.

All of which is respectfully submitted, this the 17th day  
of November, 1909.

E. H. Pennington Commissioner.



Henry A. Barker  
vs } Report  
of  
Sale  
Henry A. Barker

Filed Nov. 19, 1909.  
H. G. Ewing,  
Clerk.



This deed made and entered into on this the 1st day of July 1897 by and between James H. Davidson and Margaret Davidson his wife, of Lee County, Virginia, of the first part and Joel Barker and M. G. Ely, of Lee County, Virginia, of the Second part; Witnesseth, That, wherea<sup>d</sup> by deed dated the 12th day of January 1887, the said Joel Barker and wife, conveyed to the said James H. Davidson certain real estate therein fully described and for a full and complete description of which reference is here made to said deed, of record in the office of the County Court Clerk of said County in Deed Book No. 22 Page 84 and whereas the said Davidson afterwards took possession of a part of said land or real estate and sold and conveyed the same by deed dated the 31st day of July 1893, to one Elbert Barker, which last mentioned deed is filed as on escrow with the bill in chancery cause entitled "James H. Davidson Vs. Elbert Barker" now pending in the Circuit Court of Lee County; and whereas, the said James H. Davidson executed to the said Joel Barker certain notes or bonds for the purchase price of the lands described in the deed first above referred to; and whereas there is a balance due on the last two of said purchase money bonds, for the collection of which an action at law is now pending in the Circuit Court of Lee County; Now in consideration that the said Joel Barker cancel and deliver up to the said James H. Davidson the said two bonds and dismiss his action for the collection thereof at his own cost; the said parties of the first part do hereby give, grant, release and convey unto the said parties of the second part all the real estate conveyed as aforesaid by the said Joel Barker and wife to the said James H. Davidson except the land conveyed as aforesaid by the said James H. Davidson & wife to Elbert Barker containing 103 acres, and which now belongs to the heirs of Elkanah Barker, deceased, having been bought by said Elkanah Barker in his life time at a Judicial sale and having been conveyed to said heirs by L. T. Hyatt Comr. since his death by deed dated the 12th day of June 1897. To have and to hold the property hereby conveyed unto the said parties of the second part and his heirs forever. Witness the following signatures and



seals, the day and date first above written.

my  
J. x H. Davidson (Seal)  
mark

her  
Margret x Davidson (Seal)  
mark

Virginia, Lee County, to-wit:

I, J. D. Olinger, a Justice of the Pea in and for the County  
aforesaid, in the State of Virginia, do certify that James H,  
Davidson and Margrett Davidson, whose names are signed to the  
foregoing writing, bearing date on the 1st day of July, 1897,  
have acknowledged the same before me in my County aforesaid,  
Given under my hand this the 20 day of July 1897.

J. D. Olinger J. P.

Virginia Lee County, towit:

In the Office of the Clerk of the County Court for said County  
the 17th day of August 1897, this deed was presented and together  
with the certificate thereto annexed admitted to record.

Teste: S. V. F. Richmond, Clerk.

A copy,

Teste: W. G. Ewing, Clerk.



John Barker M. G. Ely

From } 1822

J. H. Davidson

Records for copy 100x



THIS DEED, Made this 16th day of May in the year one thousand nine hundred and four between M. G. Ely and Etta Ely, of Lee County, Va. parties of the first part, and W. T. Barker, of Lee County, Va. party of the second part- WITNESSETH: That in consideration of the sum of Twenty-five Dollars, cash in hand paid the receipt of which is hereby acknowledged the said M. G. Ely and Etta Ely doth grant, sell and convey unto the said W. T. Barker with special Warranty, all that certain boundary of land situated in the Crab Orchard, Lee County, Va. and being the interest in a tract of 270 acres conveyed to M. G. Ely by James H. Davidson, Beginning at the mouth of Crab Orchard Creek, S. to Taylor line, N. W. with Taylor line, to the North Fork of Powell's River, with the meanders of same to the beginning, containing 5 acres more or less. Supposed to be what would be M. G. Ely interest in said tract aforesaid. The said M. G. Ely covenants that he has the right to convey the said land to the grantee; that he has done no act to encumber the said land; free from all encumbrances, and that he the said party of the first part, will execute such further assurance of the said land as may be requisite.

Witness the following signature and seal.

M. G. Ely (seal.)

Etta Ely (Seal.)

State of Virginia, County of Lee, to-wit:

I, C. B. Woodward, a Justice of the Peace for the County aforesaid, in the State of Virginia, do certify that M. G. Ely, and Etta Ely whose names are signed to the foregoing writing, bearing date on the 16th day of May 1904, has acknowledged the same before me in my county aforesaid. Given under my hand this 16th day of May, 1904.

C. B. Woodward J. P.

Virginia, Lee County, to-wit:

In the office of the Clerk of Lee County the first day of June 1904. This deed was presented and, together with the certificates annexed, admitted to record at 10 o'clock A. M.

Teste: H. C. T. Ewing, Clerk.

A copy, Teste: *H. C. T. Ewing*, Clerk.



W. J. Barker  
From / Deed  
M. G. Ely, et ux.

Copy

Clerk 40¢



MEMORANDUM FOR LIS PENDENS.

In the Circuit Court for the County of Lee in the  
State of Virginia.

=====##  
Henry A. Barker, Complainant, ##

vs. ##

In Chancery. ##

William T. Barker, defendant. ##  
=====##

Now all men that the said Henry A. Barker, the complainant in the hereinafter styled cause does give notice of his Lis pendens and attachment of this memorandum. There is now pending in the Circuit Court for Lee County a certain cause in Chancery the title of which is Henry A. Barker, vs. William T. Barker; the general object of which suit and attachment sued out herein is to attach the estate of the said William T. Barker in the following property, to-wit;

FIRST: A tract of land described as lot No. 2 in the plat of said lands in the late <sup>chancery</sup> cause of Henry A. Barker vs. William T. Barker and bounded as follows, to-wit: BEGINNING at a stake ~~xxxxxxxxxxxxxxx~~ on James Barker's line a corner to lot No. 1 shown on plat as "B"; thence with James Barker's line S. 3 W. 300 ft. to a stake in the North Fork "E"; thence with the meanders of the Fork about 500 ft. to a stake at "C" corner to lot No. 1; thence with the same N. 77 1/2° E 220 ft. to the BEGINNING, containing 2 1/8 acres, more or less.

SECOND: Lot No. 3 assigned to said William T. Barker in said Chancery Cause and bounded as follows, to-wit: BEGINNING at a stake where James Barker's line edge the North Fork shown at "E"; thence with the north line of the Black Mountain right of way a distance of about 550 ft. to the Taylor line, with the same N. 51° W 50 ft. to a stake in the North Fork; thence with the same about 575 ft (North east) to the BEGINNING. Containing about one-half acre, more or less.

And to subject said two described tracts of land to



the payment of the claim against said defendant therein asserted,  
to-wit, <sup>a</sup> claim for (\$169.35) one hundred and sixty-nine dollars  
and thirty-five cents, with interest thereon from the 1st day  
of January, 1909, until paid, subject to a credit of \$58.54  
dollars. as of the 7th day of March, 1908. And the name  
of the person whose estate is intended to be affected hereby is  
William T. Barker...

Witness the following signature and seal this the 18  
day of February, 1909.

Henry A. Barker (Seal)

Virginia,

Lee County, to-wit:

I, F. L. Huff a Justice of the Peace in  
and for the County of Lee and State of Virginia, do hereby certify  
that Henry A. Barker whose name is signed to the foregoing instru-  
ment, bearing date on the 18th day of February, 1909, has acknowl-  
edged the same before me in my County aforesaid.

Given under my hand this the 18th day of February,  
1909.

F. L. Huff, Jr.

Virginia, Lee County, to-wit:

In the Clerk's office of Lee County, on this the 19th day of Feb-  
ruary, 1909, the foregoing writing was presented, and together with  
the certificate annexed, admitted to record.

Teste: H. C. D. Ewing, Clerk.



Henry A. Barker

vs. } Lis Pendens

Thos. J. Barker

Recorded in Deed  
Book 48, page 123  
Examined Feb. 20, 1909  
Indexed.



Henry A. Barber

vs.

W. T. Barber

debt to H. A. Barber 1/1/07

do - 3/7/08

debt to 11/13/09

Costs of suit

Comp. on \$160.97

Balance

	169	35
\$	58	52
\$	110	81
	5	54
\$	116	55
	44	62
	160	97
	8	03
\$	169	00



Know all Men by these Presents, That we,

*Henry A. Barker*  
*Wm. W. Pennington*

are held and firmly bound unto the Commonwealth of Virginia, in the sum of *Three*  
*hundred* Dollars, to the payment whereof, well and truly to be made to the said  
Commonwealth of Virginia, we bind ourselves and each of us, our and each of our heirs, executors and adminis-  
trators, jointly and severally, firmly by these presents. And we hereby waive the benefit of our exemption as to  
this obligation, and any claim or right to discharge any liability to the Commonwealth arising under this bond or by  
virtue of said office, post or trust, with coupons detached from the bonds of this State. Sealed with our seals, and  
dated this *Sept - 20th* day of *September*,  
one thousand nine hundred & *nine*

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas

*in the*  
*chancery cause of Henry A. Barker*  
*vs. Wm. S. Barker* by the terms  
of decree entered in said on the 14th  
day of Sept., 1909, the said Henry A.  
Barker was required to execute a bond in  
the penal sum of \$300.00 conditioned to perform  
the future order of the court as may be made  
in said cause on the appearance of the said  
defendant and his making defense to said cause.  
Now if the said Henry A. Barker and *Wm. W. Pennington*  
shall perform the future order of  
court in said cause and in case said defendant  
shall appear thereto and make defense to  
the claim of said plaintiff

then this obligation to be void, or otherwise to remain in full force and virtue.

*H. A. Barker* [SEAL]

*W. W. Pennington* [SEAL]  
mark

In the *Circuit* Court of the *County* of *Lee*, the *20th* day of  
*Sept.*, 190*9*.

This bond was executed and acknowledged in *The Clerk's office* open Court by the obligors and ordered to be recorded,  
*W. W. Pennington*,

the surety therein having first justified on oath that *his* estate, after the payment of all *his*  
just debts, and those for which he *is* bound as security for others and expect to have to pay *is*  
worth the sum of *Three hundred* dollars, over and above all  
exemptions allowed by law.

Teste:

*M. H. H. H. H. H.* CLERK



*N.A. Barker* <sup>ex</sup> *ag.*

to

BOND

*\$300.00*

Commonwealth.

*Filed Sept. 20, 1909*  
*H.C. Gearing,*  
*Clerk.*



Commonwealth of Virginia;

To the Sheriff of Lee County, Greeting.

We command you that you summon William T. Barker to appear in the Clerk's Office of our Circuit Court of the County of Lee at Rules to be held therein for the said Court on the third Monday in ~~February~~ <sup>March</sup>, 1909, to answer a bill in Chancery exhibited against him in our said Court by Henry A. Barker and that you on the first day of the said Rules have him and there this writ and make return how you have executed the same.

Witness H. C. T. Ewing, Clerk of our said Court at the Court house thereof in the County of Lee and State of Virginia, the 19<sup>th</sup> day of February, 1909, and the one hundred and thirty-third year of the Commonwealth.

*A copy,  
Teste: H. C. T. Ewing, Clerk.*

INDORSED ORDER OF ATTACHMENT.

Commonwealth of Virginia;

To the Sheriff of Lee County, Greeting.

WHEREAS Henry A. Barker has in the Clerk's Office of our Circuit Court of the County of Lee, this day filed a bill in Equity against William T. Barker for the purpose of having an attachment to secure and enforce his claim against the said William T. Barker to a debt; and

WHEREAS Henry A. Barker, plaintiff in the said bill has before T. S. Skiff, a Justice of the Peace in and for the County of Lee and State of Virginia, made affidavit that the plaintiff's said claim is believed to be just and is due and payable; that the affiant believes that the plaintiff is entitled to and ought to recover at least the sum of (\$169.35) One hundred and sixty-nine dollars and thirty-five cents, with interest thereon from the first day of January, 1909, till paid



subject to a credit of \$58.54 ~~dollars~~ as of the 7<sup>th</sup>  
day of March 1908 and that to the best of the affiants be-  
lief the said defendant:

FIRST: Is a nonresident of this State and has real es-  
tate belonging to him within the County of Lee, to-wit, the  
land in the bill and proceedings mentioned; and

SECOND: Intends to remove his one estate or proceeds  
of the sale of his estate or a materially part of such estate  
out of this State so that process of execution on a decree when  
obtained in this suit will be available;

THIRD: Is about to convert the estate in the bill and  
proceedings mentioned into money or securities with the intent  
to hinder, delay and defraud his creditors:

FOURTH: Is about to dispose of his said estate with  
intent to hinder, delay and defraud his creditors; and

WHEREAS upon and affidavit the plaintiff doth now  
require me the said Clerk to endorse on the same an order  
the Officer to whom it is directed to attach the debts and al-  
so any other estate of the said William T. Barker whether in his  
own hands or in the hands of others and especially to attach  
the estate in the said bill mentioned;

Therefore we order and command you that you forth-  
with attach the debts and estate above mentioned for the amount  
of said claim of the said Henry A. Barker and such estate so at-  
tached in your hands to secure that the same shall be forth-coming  
and liable to further proceedings thereupon, to be had at Rules  
to be held at the Clerk's Office of our said Court on the third  
Monday in March ~~February~~, 1909, and that on the first day of said Rules  
have then and there this writ and make return how you have exe-  
cuted the same.

Witness H. C. T. Ewing, Clerk of our said Court at the  
Court house thereof in the County and State aforesaid this the

19 day of February 1909, and in the 133 year of our Commonwealth.  
A copy, Teste: H. C. T. Ewing, Clerk. H. C. T. Ewing, Clerk.



Copy for Wm. T. Barker

Henry A. Barker

vs } Subpoena

Wm. T. Barker



=====	#
Henry A. Barker, Complainant,	#
vs.	#
William T. Barker, defendant.	#
=====	#

Return of Sheriff on attachment issued herein.

Executed the within and annexed attachment on the 19 day of February, 1909, at \_\_\_\_\_ o'clock \_\_\_\_\_ M. of that date within the County of Lee and State of Virginia, by levying on the ~~afollowing~~ real estate of the said defendant William T. Barker, which real estate is situated in Lee County, Virginia, in the Crab Orchard country, on the waters of the North Fork of Powell's River and bounded as follows, to-wit;

First: A tract of land described as lot No. 2 in the plat of said lands in the late cause of Henry A. Barker vs. William T. Barker and bounded as follows, to-wit: BEGINNING at a stake on James Barker's line a corner to lot No. 1 shown on plat as "B"; thence with James Barker's line S. 3. W. 300 ft. to a stake in the North Fork "E"; thence with the meanders of the Fork about 500 ft. to a stake at "C" corner to lot No. 1; thence with the same N. 77 1/2 E. 220 ft. to the BEGINNING, containing 2 1/8 acres more or less.

SECOND: Lot No: 3 assigned to said William T. Barker in said Chancery cause and bounded as follows, to-wit: BEGINNING at a stake where James Barker's line edge the North Fork shown at "E"; thence with the North line of the Black Mountain right of way a to the Taylor line, with the same N. 51 W 50 ft. distance of about 550 ft., to a stake in the North Fork; thence with the same about 575 ft. ( north east) to the BEGINNING. Containing about one-half acre, more or less.

Not executed on William T. Barker; he not being found; he being a nonresident of this State.

Given under my hand this the 19<sup>th</sup> day of February, 1909.

W. G. Tucker S. L. C.



Commonwealth of Virginia;

To the Sheriff of Lee County, Greeting.

We command you that you summon William T. Barker to appear in the Clerk's Office of our Circuit Court of the County of Lee at Rules to be held therein for the said Court on the third Monday in ~~February~~ <sup>March</sup>, 1909, to answer a bill in Chancery exhibited against him in our said Court by Henry A. Barker and that you on the first day of the said Rules have then and there this writ and make return how you have executed the same.

Witness H. C. T. Ewing, Clerk of our said Court at the Court house thereof in the County of Lee and State of Virginia, the 19 day of ~~February~~ <sup>March</sup>, 1909, and the one hundred and thirty-third year of the Commonwealth.

H. C. T. Ewing, Clerk.

INDORSED ORDER OF ATTACHMENT.

Commonwealth of Virginia;

To the Sheriff of Lee County, Greeting.

WHEREAS Henry A. Barker has in the Clerk's Office of our Circuit Court of the County of Lee, this day filed a bill in Equity against William T. Barker for the purpose of having an attachment to secure and enforce his claim against the said William T. Barker to a debt; and

WHEREAS Henry A. Barker, plaintiff in the said bill has before F. L. Huff, a Justice of the Peace in and for the County of Lee and State of Virginia, made affidavit that the plaintiff's said claim is believed to be just and is due and payable; that the affiant believes that the plaintiff is entitled to and ought to recover at least the sum of (\$169.35) One hundred and sixty-nine dollars and thirty-five cents, with interest thereon from the first day of January, 1909, till paid



subject to a credit of \$58.54 ~~dollars~~ as of the 7<sup>th</sup> day of March 1908, and that to the best of the affiants belief the said defendant:

First: Is a nonresident of this State and has real estate belonging to him within the County of Lee, to-wit, the land in the bill and proceedings mentioned; and

SECOND: Intends to remove his one estate or proceeds of the sale of his estate or a materially part of such estate out of this State so that process of execution on a decree when obtained in this suit will be available;

THIRD: Is about to convert the estate in the bill and proceedings mentioned into money or securities with the intent to hinder, delay and defraud his creditors:

FOURTH: Is about to dispose of his said estate with intent to hinder, delay and defraud his creditors; and

WHEREAS upon and affidavit the plaintiff doth now require me the said Clerk to endorse on the same an order the Officer to whom it is directed to attach the debts and also any other estate of the said William T. Barker whether in his own hands or in the hands of others and especially to attach the estate in the said bill mentioned;

Therefore we order and command you that you forthwith attach the debts and estate above mentioned for the amount of said claim of the said Henry A. Barker and such estate so attached in your hands to secure that the same shall be forthcoming and liable to further proceedings thereupon, to be had at Rules to be held at the Clerk's Office of our said Court in the third <sup>in March</sup> ~~Monday, February~~, 1909, and that on the first day of said Rules have then and there this writ and make return how you have executed the same.

Witness H. C. T. Ewing, Clerk of our said Court at the Court house thereof in the County and State aforesaid this the 19 day of Feb 1909, and in the 133 year of our Commonwealth.

H. C. T. Ewing Clerk.



Henry A. Barker  
Subpoena  
vs } In  
Chancery

Wm. A. Barker

For return of  
Sherriff See  
inside -



## Order of Publication.

### VIRGINIA:

In the Clerk's Office of the Circuit Court of Lee county, on the 19th day of February, 1909.

HENRY A. BARKER, Complainant,

vs.

WILLIAM T. BARKER, Defendant.

In chancery.

The object of this suit is to recover from the said defendant, William T. Barker, the sum of (\$169.35) one hundred and sixty-nine dollars and thirty-five cents, with interest thereon from the first day of January, 1909, subject to a credit of \$58.54, as of the 7th day of March, 1908, and also to attach the following real estate of the said William T. Barker, lying and being in Lee county Virginia, in the Crab Orkhard country and on the waters of the North Fork of Powell's river as follows, to-wit:

First: A tract of land described as lot No. 2 in the plat of said lands in the late Chancery cause of Henry A Barker vs William T. Barker and bounded as follows, to-wit: Beginning at a stake on James Barker's line a corner to lot No. 1 shown on plat as "B" thence with James Barker's line S. 3 W. 300 ft. to a stake in the North Fork "E"; thence with the meanders of the Fork about 500 ft. to a stake at "C" corner to lot No. 1, thence with the same N. 77 1-2 E. 220 ft. to the beginning, containing 21-8 acres, more or less.

Second: Lot No. 5 assigned to said William T. Barker in said chancery cause and bounded as follows, to-wit: Beginning at a stake where James Barker's line edges the North Fork shown at "E", thence with the North line of the Black Mountain right of way a distance of about 550 ft. to the Taylor line, with the same N. 51 W. 50 ft. to a stake in the North Fork; thence with the same about 575 ft. (Northeast) to the beginning, containing about one-half acre, more or less.

And an affidavit having been made and filed that the defendant, William T. Barker, is a non-resident of the State of Virginia, and an attachment having been issued and returned executed in this cause, it is therefore ordered that the defendant, William T. Barker, appear here within fifteen days after due publication of this order and do what is necessary to protect his interest in this cause; and it is further ordered that a copy of this order be published once a week for four successive weeks in the Jonesville Star, a newspaper printed in the town of Jonesville, in the county of Lee; and also a copy thereof be posted at the front door of the Court-house of said county, as prescribed by law.

A copy—Teste:

H. C. T. EWING, Clerk.

PENNINGTON BROS. p. q.



Henry A. Barker

VS { in Chancery

Wm T. Barker



I, J. C. Boatright, editor  
of The Jonesville Star, a weekly newspaper  
published in the county of Lee, state of Virginia,  
do hereby certify that the enclosed notice was  
published in said paper once a week for four  
successive weeks, commencing on the 25  
day of February 1909.

J. C. Boatright, Editor.

FEE \$ 1.00